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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,783	10/08/2003	Ilia Gimelfarb	200207864-1	6698

22879 7590 06/25/2007  
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FORT COLLINS, CO 80527-2400

EXAMINER
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PANTOLIANO JR, RICHARD

ART UNIT	PAPER NUMBER
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2194

MAIL DATE	DELIVERY MODE
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06/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/681,783

Applicant(s)

GIMEIFARB ET AL.

Examiner

Richard Pantoliano Jr

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

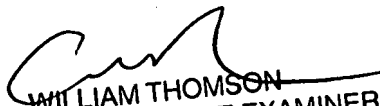
### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. This Office Action is filed in response to amendments filed on **27 March 2007** in regard to Application# **10/681,783**. **Claims 1-29** have been cancelled, and **Claims 30-56** have been added, are currently pending and have been considered below.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 38, 47, and 56** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. As per **Claim 38**, this claim recites the limitations of "determining that a global timeout value is undefined". However as per Libes (Don Libes. *Exploring Expect: A TCL-based Toolkit for Automating Interactive Programs*. O'Reilly Media Inc., 1995), page 94, authored by the individual who created the Expect toolkit, the global timeout variable for the "expect" command is always defined with a default value of 10 seconds upon the instantiation and execution of a program utilizing the Expect toolkit. Since there is always a global timeout value in the Expect toolkit, it is unclear as to what instance a global timeout value for the "expect" command would be undefined, as stated in the claim.

5. As per **Claims 47 and 56**, these claims suffer the same deficiencies as **Claim 38** and are therefore rejected for the same reasoning as applied to **Claim 38**.

***Claim Rejections - 35 USC § 101***

6. **Claims 39-56** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

7. The claims are directed to a signal directly or indirectly by claiming a medium and the Specification recites evidence where the computer readable medium is defined as a “*signal*” or “*wave*” (such as a electrical/optical/carrier wave or signal) (see Page 16, para. [46] of the Specification). In that event, the claims are directed to a form of energy, which is not presently regarded by the Patent Office as falling into a statutory category of invention.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 30-56** are rejected under 35 U.S.C. 103(a) as being unpatentable over Libes (Don Libes. *Exploring Expect: A TCL-based Toolkit for Automating Interactive Programs*. O'Reilly Media Inc., 1995) in view of Suchenwirth (Richard Suchenwirth.

*"Dynamic Variable Scoping". Accessed at //mini.net/tclrevs/2775.1 . Dated: 17 December 2001).*

10. As per **Claim 30**, Libes discloses the invention substantially as claimed including a method, comprising the steps of:

a) employing a procedure scope that defines a plurality of local variables and a context for execution of statements, wherein the procedure scope lacks a local definition of a timeout variable (pg. 482-483) (The procedure (proc) "\_read\_active()" makes use of the "timeout" variable which is not locally defined).

11. Libes further discloses locating the "timeout" variable in the global scope of the program when not found in the local scope (pg. 241, "Procedures Introduce New Scopes", para. 1-3). In an instance where the procedure were called by the main procedure of the script (which is contained within the global scope), the Expect statement would first check the local scope for the definition of the timeout variable, then the scope of the parent procedure. However, Libes does not explicitly teach executing an Expect statement that traverses a procedure hierarchy to find a most recently set value for the timeout variable when the procedure hierarchy is more than one level in the hierarchy.

12. Suchenwirth explicitly teaches traversing the procedure hierarchy to find the most recently set value of a variable (para. 1-4) (The use of "dynamic scoping" meets this claim limitation).

13. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the dynamic variable scoping teachings of Suchenwirth with the expect statement timeout teachings of Libes. One would have been motivated by the need to simplify environmental variable management on systems that allow for the maintenance and customization of such information. Many applications support a plethora of style and presentation features, which must be programmed in some way.

14. Without dynamic scope, programming these kinds of features must be done explicitly in terms of the implementation language. Usually, objects are loaded up with fields or methods that implement these features, or methods and functions have multiple parameters (perhaps with defaults). Indeed, an argument for optional, keyword-style formal parameters with defaults is that they cater to this kind of programming problem. In extreme cases, programmers move these fields or parameters into an object, which is passed as a parameter nearly everywhere. Methods are called to read, write, save, and restore these data. This popular approach usually simplifies the code considerably. It is also tantamount to implementing a set of variables with dynamic scope. The use of dynamic scoping would avoid the need to pass parameters in this fashion and allow for a desired timeout value to be maintained only within a specific chain of called procedures, rather than affecting the entire environment maintained by the program (Suchenwirth; para. 1).

15. As per **Claim 31**, Libes further teaches wherein the step of employing the procedure scope comprises the step of determining, that a value of the timeout variable

associated with the Expect statement is undefined within the procedure scope (pg. 242, para. 1-4).

16. As per **Claim 32**, Suchenwirth further teaches wherein the step of executing the Expect statement comprises the step of traversing backward through a set of one or more nested procedures in a procedure hierarchy to identify the most recently set value for the timeout variable (para. 1-4).

17. As per **Claim 33**, Libes further teaches the step of assigning the most recently set value to the timeout variable on a global scope (pg. 242-243).

18. As per **Claim 34**, Suchenwirth further teaches wherein the step of employing the procedure scope comprises the step of establishing the procedure scope based on a set of one or more nested procedures that are invoked to reach the procedure scope (para. 1-3) (The "dynascope" procedure traverses the procedure hierarchy until a match for the variable is found or the global scope is reached).

19. As per **Claim 35**, Suchenwirth further teaches wherein the step of employing the procedure scope comprises the steps of:

a) on a first occasion determining that a value of the timeout variable associated with the Expect statement is undefined within the procedure scope (para. 1-4); and

b) upon the first occasion identifying a calling procedure to the procedure scope from a procedure hierarchy by traversing backwards through the procedure hierarchy to identify the most recently set value for the timeout variable (para. 1-4);

c) the method further comprising the step of on a second occasion determining that a value of a timeout variable associated with a second Expect statement is defined within a local procedure scope (para. 1-4) (Once a definition of the variable has been located in the hierarchy, access to that variable exists for the rest of the lifetime of that nested procedure).

20. As per **Claim 36**, Suchenwirth further teaches step of executing the Expect statement comprises the step of employing a change scope command to traverse backwards from the procedure scope to a calling procedure and to change the procedure scope to a second scope associated with the calling procedure (para. 2) (The “uplevel” and “upvar” commands meet this claim limitation).

21. As per **Claim 37**, Suchenwirth further teaches wherein the step of executing the Expect statement comprises the step of returning a value of the timeout variable defined at a global scope associated with the procedure scope (para. 1-4) (The “dynascope” procedure will eventually reach the global scope if the variable is not defined within the procedure hierarchy. As per Libes; pg. 94, there is a timeout variable automatically defined in the global scope of a program that is used by the “expect” command when a local timeout value is not specified).



22. As per **Claim 38**, Libes further teaches wherein the step of executing the Expect statement comprises the steps of:

a) determining that a global timeout value is undefined (Libes; pg. 94)(There is a timeout variable automatically defined in the global scope of a program that is used by the "expect" command when a local timeout value is not specified; and

b) returning a default timeout value (Libes; pg. 94).

23. As per **Claims 39-47 and 48-56**, being directed to the apparatus and article implementing the method of **Claims 30-38**, these claims are rejected for the same reasoning as applied to **Claims 30-38**.

### ***Conclusion***

24. The prior art made of record on the P.T.O. 892 that has not relied upon is considered pertinent to applicant's disclosure. Careful consideration of the cited art is required prior to responding to this Office Action, see 37 C.F.R. 1.111(c).

25. Examiner has cited particular columns and line numbers, pages, paragraphs and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual

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claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

27. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Pantoliano Jr whose telephone number is (571) 270-1049. The examiner can normally be reached on Monday-Thursday, 8am - 4 pm EST.

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29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571)272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

30. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP  
06/06/2007

  
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